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Human Rights Committee

Concluding observations on the fourth periodic report of Azerbaijan

Addendum

Information received from Azerbaijan on follow-up to the concluding observations*

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Follow-up information in response to the 47th paragraph of the Concluding observations of the Human Rights Committee on the fourth periodic report of the Republic of Azerbaijan

1. The letter reflecting the position of the Republic of Azerbaijan with regard to the consideration of its fourth periodic report on International Covenant on Civil and Political Rights by the Human Rights Committee of the United Nations and the adoption of Concluding Observations was sent to the Human Rights Committee on 20 December 2016. Moreover, taking into account the recommendations in the 47th Paragraph, it should be noted that concrete mechanisms are determined in laws and other normative acts of the Republic of Azerbaijan in order to guarantee human rights and freedoms and to prevent torture and other cruel, inhuman or degrading treatment or punishment.

2. In the National Action Program on Increasing Efficiency of Protection of Human Rights and Freedoms in the Republic of Azerbaijan, the Office of the General Prosecutor was commissioned with the duties, among others, to comply with the demands of the legislation and to investigate violation of human rights, ill-treatment, abuse of power and other such cases thoroughly, during the time of detention, arrest and placement in the places of temporary detention and investigative isolators. In order to implement the above-mentioned Program, the application and information of citizens about torture and cruel, inhuman or degrading treatment or punishment not constituting as torture are registered in the special book in the Department of Supervision of Investigation in the Office of Prosecutor of the Office of the General Prosecutor and their investigation are kept under supervision in the district (city) Offices of Prosecutor. The gathered materials are requested on constant basis and reviewed in the Department before the adoption of the decision. The application of measures stipulated in the legislation is provided in order to adopt objective decisions. As a result of the applied measures, the number of such appeals and information received by district and city Offices of Prosecutor has been decreased in 2016.

3. The Order of the President of the Republic of Azerbaijan dated 10 February 2017, on developing activities in the penitentiary field, humanizing the policy of punishment and widening the application of alternative punishment and compulsory procedural measures not relating to isolation from society, has a special importance for organizing productive activity in the above-mentioned fields. According to the 8th Paragraph of the Order, it is required that the provisions of the Code of Criminal Procedure concerning the grounds of application for an arrest during the selection of a restrictive measure by the preliminary investigation units and courts should be applied strictly and the application of alternative punishment and compulsory procedural measures should be widened in order to achieve the objectives of punishment and restrictive measures by not isolating the person from society.

4. The National Preventive Mechanism under the High Commissioner (Ombudsman) of the Republic of Azerbaijan was established as an institution for implementing the functions that are stipulated in the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The National Preventive Mechanism visits the places of detention regularly or anytime when it is assumed necessary, and submits its suggestions and recommendations to relevant bodies. Such places include the ones which the detained persons cannot leave by their own will.

5. As in previous years, the facts of torture and other cruel, inhuman or degrading treatment or punishment with regard to detained or arrested persons were not registered. At the same time, as a result of departmental supervision, the revealed facts of arbitrary detention, arbitrary taking and ill-treatment not relating to torture were investigated thoroughly and objectively, and legal decisions were adopted for each of them. As such, 43 facts related to violation of human rights and freedoms were confirmed by the investigations in 2016 and 76 employee held accountable for disciplinary measures. Among them, 12 were expelled from the bodies of Internal Affairs, 12 were removed from job, 12 were declared with notification about their incompetence for duties and other disciplinary measures were applied. 46 employees were punished on 21 facts related to arbitrary arrest and arbitrary taking. 10 employees were punished on 9 facts related to cases of ill-treatment.

6. In 2016, 198 monitoring were held in country's temporary detention centres by the representatives of National Preventive Group (163), Non-Governmental Organisations (15), International Committee of Red Cross (11), UN Working Group on Arbitrary Detention (2) and European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (7), and cases of torture, inhuman or degrading treatment were not determined.

7. Under the Minister of Justice, there is the Public Committee which operates for the purposes of providing transparency and openness in the work of Penitentiary institutions and organizing public monitoring in this field. There is an efficient and practical relation with the Public Committee. The recommendations of the Public Committee as a result of its visits to penitentiary institutions are studied carefully and relevant information is submitted about the measures taken to that end.

8. In line with recommendations of the European Committee for the Prevention of Torture, the implementation of measures in order to increase the preparation and professionalism of the staff in relation to the application of special means in the penitentiary system are agreed with the representation of the International Committee of Red Cross and the joint trainings have been started as of November 2016.

9. The bases of the bar consists of issues of complying with the legislation of the Republic of Azerbaijan, non-interfering and non-pressuring the professional work of lawyers and their association by an office of prosecutor, a court, other state bodies and public entities, equal rights of lawyers, self-administering, and adopting of decisions related to lawyers and bar activities independently. The law of the Republic of Azerbaijan on "Lawyers and activity of a lawyer profession" regulates the following:

- Everyone in the country has a right to appeal to the lawyer based on his or her choice, for the implementation of the protection of his or her rights and legal interests, during the processes of the preliminary investigation, examination and court hearing;
- Everyone in the country has a right to use the aid of his or her lawyer from the time of detention as a suspected person, accusation for committing a crime and arrest;
- The activity of lawyers that provide legal aid on other issues.

10. The providing of protection and security of lawyers are implemented in accordance with the provisions of the law of the Republic of Azerbaijan on "State protection of persons that participate in the criminal proceeding". According to the mentioned Law, the protected person means that about whom a decision is adopted by the authorized state bodies regarding the application of security measures. In the mentioned law, the lawyers and representatives of the suspected or accused persons are determined as protected persons.

11. With regard to the circumstances stipulated in the Concluding Observations about detention of lawyers for the characteristics of the case, removing of them from their positions and facing of them with other disciplinary and criminal liability, it should be noted that the lawyers are held accountable for disciplinary liability only when it is revealed that they violated the requirements of legislative acts, statute about rules of conduct for lawyers as well as ethic norms for lawyers.

12. Only suspected persons for committing a crime are held accountable for criminal liability in accordance with law in the Republic of Azerbaijan. When applying such measures, the principle of equal rights of everyone is guided without distinction to occupation, political conviction, membership in political parties, trade unions and other public organisations and other status.

13. The General Prosecutor of the Republic of Azerbaijan and the Governing Body of Bar Association should be notified immediately, when a lawyer is detained or a decision is adopted to hold a lawyer accountable for criminal liability. When the close relatives of the protected persons are impacted for the purposes of pressuring the protected persons, the security measures can be applied for the close relatives of the protected persons as well.

14. Lots of provisions about freedom of expression and related rights are stipulated in the Constitution of the Republic of Azerbaijan and other legislative acts and the protection

of freedom of expression in accordance with international standards are considered in those laws.

15. With reference to 36th Paragraph of the Concluding Observations, where the alleged intimidation and harassment, arbitrary arrest and detention of human rights defenders, youth activists, political opponents, independent journalists and bloggers stated, it should be noted that the Republic of Azerbaijan is a democratic and unitary state. The state guarantees the rights and freedoms of all citizens without distinction to religion, race, political or social affiliation. Everyone is equal before the law. No one is convicted unless committing of a concrete crime is proved by the investigative bodies and courts.

16. No one in the Republic of Azerbaijan, including a journalist, a human rights defender, and a political activist has been held accountable for exercising the freedom of thought and expression and has been subjected to torture. Guided by the principle of everyone before the law, without distinction to the post or occupation, the person is held accountable for criminal liability that is accused of committing a crime.